

ESTTA Tracking number: **ESTTA193731**

Filing date: **02/20/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Lonza Inc.
Granted to Date of previous extension	02/20/2008
Address	90 Boroline Road Allendale, NJ 07401-1613 UNITED STATES
Attorney information	Robert S. Weisbein, Esq. Darby & Darby P.C. 7 World Trade Center250 Greenwich Street New York, NY 10007-0042 UNITED STATES tmdocket@darbylaw.com, lwinston@darbylaw.com, rweisbein@darbylaw.com, arubinstein@darbylaw.com Phone:212-527-7700

### Applicant Information

Application No	78949587	Publication date	10/23/2007
Opposition Filing Date	02/20/2008	Opposition Period Ends	02/20/2008
International Registration No.	NONE	International Registration Date	NONE
Applicant	Cos Carus, Jose Ignacio Colonia Morelos Mineros No. 69 Mexico, D.F., 15270 MEXICO		

### Goods/Services Affected by Opposition

Class 004.

All goods and services in the class are opposed, namely: wax, industrial oils and greases; lubricants, namely, all purpose lubricants, drilling lubricants, dust absorbing and wetting compositions, namely, dust laying and absorbing compositions for use on unpaved roads, petroleum based dust absorbing compositions for use in road building, dustlaying; dust binding compositions; fuels, namely, mineralized spirits for motors; and illuminants, namely, candles and wicks for lighting

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	724068	Application Date	04/28/1959
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Registration Date	11/21/1961	Foreign Priority Date	NONE
Word Mark	ACRAWAX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1939/00/00 First Use In Commerce: 1939/00/00 Synthetic Wax-Like Chemical Substances Useful in Various Applications in the Industrial Arts		

Attachments	01433474.pdf ( 4 pages )(16798 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Robert Weisbein/
Name	Robert S. Weisbein, Esq.
Date	02/20/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Mark: AGROWAX  
Serial No.: 78/949,587  
Filed: August 10, 2006  
Published: October 23, 2007

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LONZA, INC.  Opposer,  v.  JOSE IGNACIO COS CARUS,  Applicant.		Opposition No. _____
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Lonza, Inc., a New York corporation, located and doing business at 90 Boroline Road, Allendale, New Jersey, 07401-1613 ("Lonza" or "Opposer"), believes that it will be damaged by the registration of Application Ser. No. 78/949,587 and hereby opposes grant of same.

As grounds for its opposition, Opposer alleges as follows:

1. Opposer is one of the world's leading suppliers to the pharmaceutical, healthcare and life science industries. It has been a leading supplier of lubricants and chemical substances for decades.

2. Continuously, since 1939, Opposer, or its predecessor in interest, has used the mark ACRAWAX in connection with synthetic wax-like chemical substances useful in various applications in the industrial arts.

3. Opposer is the owner of U.S. Registration No. 724,068 for its ACRAWAX mark for use in connection with synthetic wax-like chemical substances useful in various applications in the industrial arts. This registration is currently valid, subsisting and in full force and effect, is

registered on the Principal Register of United States Patent and Trademark Office and is incontestable pursuant to 15 U.S.C. § 1065. This registration was applied for on April 29, 1959 and issued on November 21, 1961.

4. On August 10, 2006, Applicant, Jose Ignacio Cos Carus filed Application Serial No. 78/949,587 to register the mark AGROWAX for " wax, industrial oils and greases; lubricants, namely, all purpose lubricants, drilling lubricants, dust absorbing and wetting compositions, namely, dust laying and absorbing compositions for use on unpaved roads, petroleum based dust absorbing compositions for use in road building, dustlaying; dust binding compositions; fuels, namely, mineralized spirits for motors; and illuminants, namely, candles and wicks for lighting in Class 1" based on Mexican Registration No. 942894. This application was published for opposition in the October 23, 2007 Official Gazette.

5. Applicant's filing date of Ser. No. 78/949,587 is subsequent to Opposer's first use of its ACRAWAX mark.

6. The registration date of Applicant's Mexican Reg. No. 942894 is subsequent to Opposer's first use of its ACRAWAX mark.

7. In view of the close similarities of the parties' respective marks and goods, Applicant's AGROWAX mark so resembles Opposer's ACRAWAX mark as to be likely to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d) of the Trademark Act.

8. For these reasons, Opposer would be damaged by the registration of Applicant's AGROWAX mark shown in Application Serial No. 78/949,587.

WHEREFORE, Opposer respectfully requests that Application Serial No. 78/949,587 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Pursuant to 37 C.F.R. § 2.101 Opposer has served a copy of the Notice of Opposition on the Attorney of record for Applicant identified on the USPTO's TARR database by first class mail on February 20, 2008. A copy of the certificate of service is attached.

The required fee of \$300.00 is enclosed. Please charge additional costs to our Deposit Account No. 004-0100.

Respectfully submitted,

DARBY & DARBY P.C.

Dated: New York, New York  
February 20, 2008-02-19

By: /Robert Weisbein /  
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*Attorneys for Opposer  
Lonza, Inc.*

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and complete copy of the foregoing NOTICE OF OPPOSITION was served by first class mail to the correspondent of record for Applicant addressed as follows:

ALBERT B. KIMBALL, JR.,  
711 LOUISIANA ST STE 2300  
HOUSTON, TX 77002-2770

Dated: February 20, 2008	/Abigail Rubinstein/
	Abigail Rubinstein